

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

GARY YATES and CHRISTINA MARIE YATES, Plaintiffs	: : : : : : : : : : :	No. 3:15cv1505 (Judge Munley)
v.	:	
PAUL THIEL and DANIEL COULTHARD, Defendants	: : : : : : : : : : :	

.....

ORDER

AND NOW, to wit, this 18th day May 2016, Defendant Daniel Coulthard's motion to dismiss (Doc. 15) plaintiffs' amended complaint is denied in part and granted in part as follows:

1) The motion is **DENIED** as moot with regard to the Fourteenth Amendment equal protection claim in Count II because plaintiffs indicate that they did not seek to plead such a claim;

2) The motion is **GRANTED** with regard to the Pennsylvania state constitutional claim in Count II, and the Pennsylvania state constitutional claim is hereby **DISMISSED**;

3) The motion is **DENIED** with regard to the Fourth Amendment excessive force claim in Count II and this claim shall proceed;

4) The motion is **GRANTED** with regard to Count V's negligent

infliction of emotional distress claim, and this claim is **DISMISSED**;

5) The motion is **GRANTED** with regard to Count VII's loss of consortium claim, and this claim is **DISMISSED** and

6) Defendant Daniel Coulthard is directed to file an answer to the complaint within fourteen (14) days from the date of this order.

BY THE COURT:

s/ James M. Munley
JUDGE JAMES M. MUNLEY
United States District Court